

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement for date of service 01/15/01?
- b. The request was received on 01/15/02.

### **II. EXHIBITS**

1. Requestor, Exhibit 1:
  - a. TWCC 60 and Letter Requesting Dispute Resolution dated 01/15/02
  - b. HCFA's UB-92 1450
  - c. EOB
  - d. EOBs from other carriers
  - e. Medical Records
  - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Based on Commission Rule 133.307 (g) (4), the Division notified the insurance carrier Austin Representative of their copy of the request on 02/21/02. The Respondent did not submit a response to the request. The "No Response Submitted" sheet is reflected in Exhibit 2 of the Commission's case file.
3. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor:
  - a. The Provider... "charges the above-referenced services at a fair and reasonable rate. Specifically, these rates are based upon a comparison of charges to other Carriers and the amount of reimbursement received for these same or similar services." The provider is seeking additional reimbursement in the amount of \$1,551.48 per the TWCC-60, for the date of service 01/15/01.

#### IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 01/15/01.
2. The provider billed \$9,936.53 for the date of service 01/15/01.
3. The carrier reimbursed the provider \$5,772.05 for the date of service 01/15/01.
4. The amount in dispute \$1,551.48 per the TWCC-60, for the date of service 01/15/01.

#### V. RATIONALE

Medical Review Division's rationale:

Per the Texas Workers' Compensation Act and Rules §413.011:

“(b) Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by the individual or by someone acting on the individual's behalf. The commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

The Requestor's UB-92's showed an ICD-9 Code of 724.2 (Lumbago). Example EOBs from other insurance carriers submitted showed an ICD-9 Code of 724.2. Six EOBs from other insurance carriers show that the provider had been paid for treatment of an individual of equivalent standard of living and paid by “...someone acting on that individual's behalf...” and this conforms with the criteria in Sec. 413.011 (d). The Requestor has provided information that indicates reimbursement of 87% of billed charges would be fair and reasonable.

TWCC § 134.401(a)(4)states: “Ambulatory/outpatient surgical care is not covered by this guideline and shall be reimbursed at a fair and reasonable rate until the issuance of a fee guideline addressing these specific types of reimbursement.” The Respondent has failed to establish their reimbursement for date of service, 01/15/01, was fair and reasonable. **(\$9,936.53 x 87% = \$8,644.78) (\$8,644.78 - \$5,772.05 = \$2,872.73)**. Therefore, additional reimbursement in the amount of \$1,551.48 as requested per the TWCC-60 is recommended.

The above Findings and Decision are hereby issued this 16<sup>th</sup> day of May 2001.

Michael Bucklin, LVN  
Medical Dispute Resolution Officer  
Medical Review Division

MB/mb

## **VI. ORDER**

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$1,551.48 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 16th day of May, 2002.

Carolyn Ollar R.N., B.A.  
Medical Dispute Resolution Officer  
Medical Review Division

CO/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.